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C O N F I D E N T I A L STATE 125627

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E.O. 12958: DECL: 11/26/2018  
TAGS: [PARM](#) [NATO](#) [MOPS](#) [PREL](#) [NW](#)  
SUBJECT: DEMARCHE TO NORWAY REGARDING CONVENTION ON  
CLUSTER MUNITIONS

REF: A. STATE 125608  
[1](#)B. STATE 125512  
[1](#)C. 11/21/08 TELCON BAKER-NOLL

Classified By: PM DAS Stephen Ganyard for Reasons: 1.4 (b) and (d)

[1](#)1. (U) This is an action request; see para 3.

[1](#)2. (C) Summary: On December 3, the Convention on Cluster Munitions (CCM) will be opened for signature in Oslo, Norway. The United States will neither sign this Convention nor participate as an observer. Norway was instrumental in the process that led to the Convention and fully supports a broad ban on cluster munitions. Norway reluctantly joined other NATO Allies and close U.S. partners in supporting the inclusion of Article 21 to protect interoperability between states that sign and those that do not sign the CCM. The United States stores a limited amount of older cluster munitions in Norway, although this may not be known by the Norwegian MFA and should not be raised with the MFA. Norway has not approached the U.S. on these stocks or other issues related to interoperability. Post reports that ODC Oslo is working on options for removing U.S. cluster munitions stocks. However, Norway could call for their removal publicly to demonstrate their adherence to the spirit of the ban. The Department requests that Post emphasize that provisions in the CCM protect Alliance interoperability and stress that the United States should be consulted bilaterally before Norway takes steps that could disrupt NATO operations or impact its cooperation with U.S. military forces. End Summary.

#### Objectives

[1](#)3. (SBU) If Norway embraces a narrow interpretation of Article 21, then it could result in negative consequences for NATO operations. Confirm that Norway's interpretation of Article 21 will ensure continued interoperability for NATO combined operations. Post may draw on more detailed information on CCM and USG policy in refuels and background below for these discussions.

-- Explain the United States is not in a position to sign the CCM at this time because of defense requirements and far-ranging security commitments, but the U.S. shares Norway's concerns about potential unintended harm to civilians caused by cluster munitions and is taking technical steps to mitigate this problem.

-- Note our appreciation for the inclusion of Article 21 in the CCM text. Convey that the provision will protect NATO's ability to conduct a broad range of combined operations where cluster munitions might be used. Note that the NATO Military

Committee advice of October 2 confirms interoperability is protected. With so many challenges facing the Alliance, maintaining interoperability is paramount.

-- Request Norway convey to the U.S. bilaterally any concerns about interoperability or U.S. and Norwegian military forces working together in combined operations. In the meantime, the U.S. encourages Norway not to take any action that would undermine maintaining flexibility to reach an understanding on this issue.

¶4. (SBU) Background: On December 3, the CCM will be open for signature in Oslo, Norway. All UN member states are invited to attend the ceremony, but the United States will not participate. It is anticipated at least 20 of our 25 NATO Allies and several other key partners will sign the CCM. The United States has had a firm policy of non-participation in the Oslo Process and subsequent conferences solely aimed at encouraging states to sign the CCM. The text of the Convention on Cluster Munitions can be found at: [www.stopclustermunitions.org/the-solution/the-treaty/](http://www.stopclustermunitions.org/the-solution/the-treaty/)

¶5. (SBU) Humanitarian concerns have overridden military concerns for Norway throughout the process. It was only due to a strong stance on preserving interoperability by members of the so-called "like-minded" group - several NATO Allies and other close partners - during the Oslo Process negotiations that led Norway and other core group states to accept the inclusion of Article 21. Many NGOs involved in the process view Article 21 as a loophole to the CCM and are encouraging states to declare at the time of signing that they will not take advantage of the article's broad provisions. Other than discussions at NATO, in which Norway abstained from active participation, the Norwegians have not approached the U.S. regarding its intentions for implementing the CCM in the context of combined or NATO operations.

¶6. (C) In negotiations on cluster munitions in the framework of the Convention on Conventional Weapons (CCW), Norway joined a group of states that insisted on the use of ban language in the CCW document and opposed any CCW text that would be seen as legitimizing the use of cluster munitions. Legal arguments about the extension of the CCM ban to non-States Parties aside, it is likely that major players in the Norwegian MFA agree with the NGO assessment that the CCM will stigmatize the use of cluster munitions, thereby constraining the actions of non-States Parties to the CCM. It is not unreasonable to assume that Norway would make a public statement about refusing to enter combined operations where cluster munitions use is possible even though Norway would be permitted to do so. This would constrain options for Norwegian participation in NATO or UN operations involving the United States and could lead other countries to make similar declarations or risk heavy criticism from the domestic constituencies.

¶7. (C) Regarding the issue of U.S. cluster munitions storage in Norway, Post reports that major players in the MFA appear to be unaware of the presence of cluster munitions in the U.S. stockpiles (Ref C), and thus do not appear to be prepared to make an issue of it. Post noted that ODC Norway reports the cluster munitions stockpile is limited and made of older models. It also appears that these stocks are not of vital importance to current U.S. operations or planning. ODC is working on a plan to either remove these cluster munitions from Norway or to have them demilitarized. Efforts are being made to keep the stockpile discussion a low key-operation and in mil-mil channels if at all possible. It is best for the United States that this issue be kept out of the public eye because of its potential impact on other states where cluster munitions are stored. Post should use its best judgment for engaging on this issue.

¶8. (U) For more information please contact Katherine Baker (202-663-0104) or Sho Morimoto (202-663-0290) in PM/WRA.  
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